

REMARKS

Claims 1-11 are pending. Claims 1-9 and 11 are allowed. Claim 10 is rejected. This Response is filed in reply to the Office Action dated April 15, 2004. Applicants gratefully acknowledge the Examiner's allowance of claims 1-9 and 11. In this Response, silence with regard to any of the Examiner's rejections is not an acquiescence to such rejections. Applicants reserve the option to further prosecute the same or similar claims in the instant or a subsequent application.

As provided by the Examiner, claim 10 stands rejected under 35 U.S.C. 101(e) as being directed to non-statutory subject matter, the Examiner contending that the data signal is neither a process, a machine, a manufacture, nor a composition of matter. Applicants traverse the Examiner's objections and rejections and respectfully request reconsideration in view of the remarks and amendments.

Claim 10 is amended to recite that the data signal is a data signal *embodied in a transmission medium...for execution in a computer*. As provided in MPEP 2106, and recognized by the Examiner in the allowance of the claims, and particularly claim 9, a claimed medium encoded with a computer program defines structural and functional interrelationships between the computer program and the medium which permit the computer program's functionality to be realized, and is thus statutory. MPEP 2106 also provides that functional descriptive material on a medium that becomes structurally and functionally interrelated to the medium is considered statutory.

In the case of claim 10, the *data signal is embodied on a transmission medium* and includes *a routing program for execution in a computer functioning as a router in a network*. The routing program comprises *program code* for, at least in part, *determining whether an identifier in a received routing protocol message is the same as an identifier currently used by the router, program code for comparing sequence information in a routing protocol message; program code for determining whether routing protocol messages are being received at a rate above a predetermined threshold rate; and program code for*

selecting an identifier different from the currently used identifier. Thus, the *transmission medium* is encoded with *a computer program* that defines structural and functional interrelationships between the computer program and the medium which permit the computer program's functionality to be realized in performing the operations recited in claim 10. Further, the *data signals* are embodied on the *transmission medium* and become structurally and functionally interrelated to the medium, as recited in claim 10 in relation to the computer program comprising program code to permit the program's functionality.

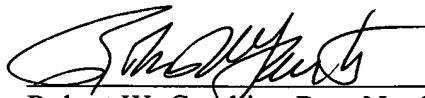
Based on the above, the subject matter of claim 10 is deemed to be statutory and reconsideration of the rejection of claim 10 is respectfully requested.

CONCLUSION

As provided in the above Remarks, it is respectfully submitted that this application is in condition for allowance. Accordingly, allowance is requested. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicants' attorney would be helpful in expediting the prosecution of this application, the Examiner is invited to call the undersigned at (617)832-1175.

Respectfully submitted,

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